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COMMERCE—ROUNDHOUSE LABORER INJURED WHILE DUMPING ASHES FROM ENGINE HELD NOT ENGAGED IN INTERSTATE COMMERCE.—Plaintiff was a laborer in a roundhouse. He was injured while removing ashes from an engine which had recently come in carrying interstate freight. The next trip of the engine was not known, as it hauled both interstate and intrastate trains and was not under orders. In an action under the Workmen's Compensation Law for injuries, the defendant contended that the plaintiff was engaged in interstate commerce. *Held*, the plaintiff was not engaged in interstate commerce. *Boals v. Pennsylvania R. Co.* (1920), 183 N. Y. Sup. 915.

The test as to whether one is engaged in interstate commerce seems to be: was the employee at the time of the injury directly engaged in interstate transportation or in work so closely related to it as to be practically a part of it? *Cincinnati, etc., R. Co. v. Hansford*, 173 Ky. 126. When the work is done directly on the tracks, bridges, or roadbed of an interstate railroad, it is uniformly held that the employee is engaged in interstate transportation, and the situation is not altered by its use as an intrastate railroad at the same time. *Pederson v. Delaware, etc., R. Co.*, 229 U. S. 146. Where the work done is on an engine, car, or other rolling stock, an employee is not engaged in interstate commerce unless the instrument under repair is designated positively for use in interstate commerce. *Narey v. Minneapolis, etc., R. Co.*, 177 Ia. 606. Its character as an instrument of commerce depends upon its employment at the time, not upon remote probabilities or upon accidental later events. *Mayer v. Union R. Co.*, 256 Pa. St. 474. When the workman is not directly engaged on an instrument of interstate commerce, but his work is more remotely connected with it, the problem becomes more difficult. Such work as is so closely related to interstate commerce as to be in practice and legal contemplation a part of it is interstate transportation. A guard at a railroad crossing, a workman leaving his work on an interstate railroad, a brakeman on an intrastate car disconnecting an interstate car from it, have all been held to be engaged in interstate transportation. *Pederson v. Delaware, etc., R. Co.*, 229 U. S. 146; *Erie Railroad Co. v. Winfield*, 244 U. S. 170; *New York Central, etc., R. Co. v. Carr*, 238 U. S. 260. A workman on a railroad which has not yet become an instrumentality of commerce, an employee tearing down a roundhouse rendered useless by fire, a person taking down fixtures in an interstate roundhouse, have been held not to be engaged in interstate transportation. *Jackson v. Chicago, etc., Ry. Co.*, 210 Fed. 234; *Thomas v. Boston & M. R.*, 218 Fed. 143; *Shanks v. Delaware, etc., R. Co.*, 239 U. S. 556. See *Ann. Cases*, 1918B, 52.

CONSTITUTIONAL LAW—DELEGATION OF LEGISLATIVE POWER.—A statute empowered the state fire marshal, and other named officers, whenever they should find any building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, was especially liable to fire, and which was so situated as to endanger other property or persons, to order the same remedied or removed at once. It also provided that a property owner, who felt he was aggrieved by the order, could appeal